

RECEIVED

MAY 26 2015

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

Lessor: IDAHO POWER CO
PO BOX 70
Boise, ID 83707
208-388-2905

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
61-11939	0.27 CFS	104.0 AF	NA	NA
Combined Lease Totals:	0.27 CFS	104.0 AF	NA	NA

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 01/01 to 12/31

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2019.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

IDAHO POWER CO

PO BOX 70

Boise, ID 83707

By Jonathon C. Bowling

Date 5/26/15

Printed Name JONATHAN C. BOWLING

Title ENGINEERING LEADER

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-9098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date May 27, 2015

Lease approved by IDWR Chae Palma

Date 5/27/2015

ATTACHMENT A
WATER RIGHT NO. 61-11939
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: IDAHO POWER CO
 PO BOX 70
 Boise, ID 83707
 208-388-2905

Priority Date: 4/23/1964

Source: Groundwater

Tributary to:

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	01/01	to 12/31	0.27 CFS	104.0 AF
	Total:		0.27 CFS	104.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWNW Sec. 10, Twp 03S, Rge 06E, ELMORE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE:

INDUSTRIAL			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10							X										

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The un-leased portion of water diverted under this right shall not exceed the maximum volume of 189.0 af per year of which no more than 105.8 af per year can be consumptively used.
13. The maximum volume of water leased under this right shall not exceed 104 af per year of which no more than 58.2 af per year can be consumptively used.

FEB 20 2015

DEPARTMENT OF
WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Idaho Power
(Select one owner – see item 1A on the application)

Water Right No. 61-11939
(One water right per application)

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Contact information for all owners of the water right that is being leased or sold on this application. |
| 1B | ☒ | ☐ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3E | ☐ | ☒ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>FRONT DESK</u>	Date Received: <u>12/26/14</u>	Receipt # <u>C099764</u>
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>ON FILE</u>	

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Idaho Power Email Address jbowling@idahopower.com
Mailing Address P.O. Box 70, Boise, ID 83707 Phone Number (208) 388-2905

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).

- E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative Jonathon C. Bowling Organization Idaho Power
Professional Title Engineering Leader Email Address jbowling@idahopower.com
Mailing Address P.O. 70 Boise, ID 83707 Phone Number (208) 388-2905

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 61-11939 ☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.
(If a portion of a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

Water is diverted from a well.

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.
There is a domestic well on site.

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are water rights that are utilized together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

D. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☒

If yes, describe. _____

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to [Section 42-222\(2\), Idaho Code](#). A portion of this water right has been in the water bank for the past 5 years. The remaining portion will continue to be used at the Danskin plant (see Nelson Memo).

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2015 to 2020 (maximum lease period 5 years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate. _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.

Lisa A. Grow
Signature of Designated Applicant

Lisa A. Grow
Printed Name

2.20.15
Date

Jonathon C. Bowling
Signature of Authorized Representative

Jonathon C. Bowling
Printed Name

2/20/15
Date

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Officer Profiles

IDACORP and Idaho Power



Darrel T. Anderson

President and Chief Executive Officer,
IDACORP, Inc. and Idaho Power



Rex Blackburn

Senior Vice President and General
Counsel



Dan B. Minor

Executive Vice President, IDACORP,
Inc. and Executive Vice President and
Chief Operating Officer, Idaho Power



Lori D. Smith

Vice President and Chief Risk Officer



Patrick A. Harrington

Corporate Secretary



Steve R. Keen

Senior Vice President, Chief Financial
Officer and Treasurer, IDACORP, Inc.
and Idaho Power



Ken Petersen

Vice President, Controller and Chief
Accounting Officer, IDACORP, Inc.
and Idaho Power



Jeffrey L. Malmen

Vice President of Public Affairs

Idaho Power



N. Vern Porter

Vice President



Warren Kline

Senior Vice President of Customer
Operations



Lisa A. Grow

Senior Vice President of Power
Supply



Gregory W. Said

Vice President of Regulatory Affairs



Lonnie G. Krawl

Vice President and Chief Information
Officer



Luci K. McDonald

Vice President of Human Resources
and Corporate Services

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>61-11939</u>	<u>0.27 cfs/ 104 AF</u>	<u>Industrial</u>	<u>01/01</u> to <u>12/31</u>
	<u> </u>	<u> </u>	<u> </u> to <u> </u>
	<u> </u>	<u> </u>	<u> </u> to <u> </u>
	<u> </u>	<u> </u>	<u> </u> to <u> </u>
	<u> </u>	<u> </u>	<u> </u> to <u> </u>
	<u> </u>	<u> </u>	<u> </u> to <u> </u>
Total Amount: <u>0.27 cfs/ 104 AF</u>			

2. Source of water Ground Water tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3S	6E	10	4		SW	SW	Elmore

4. Acres to be idled within the place of use:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3S	6E	10							X										

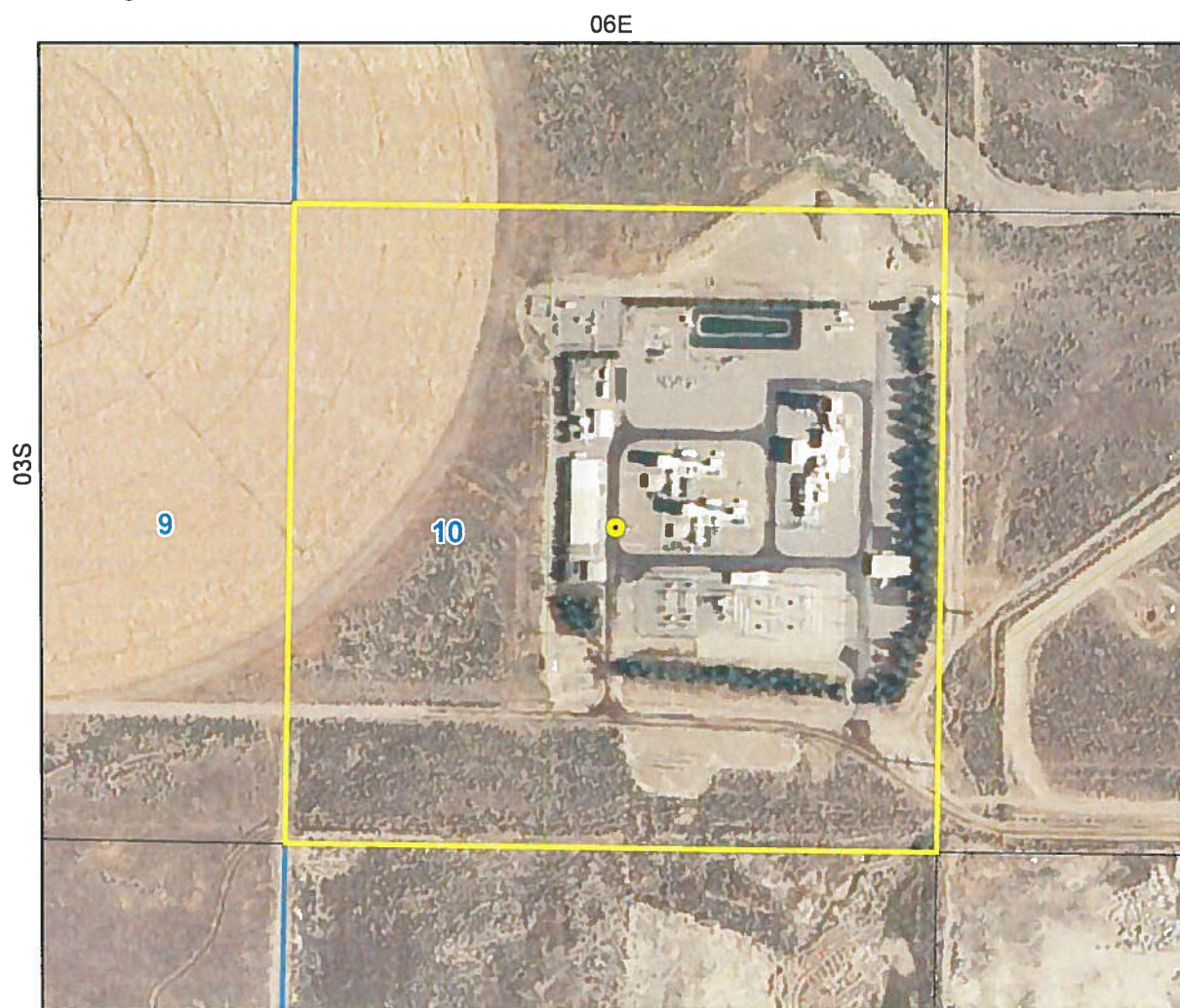
If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** N/A

State of Idaho
Department of Water Resources

Water Right
61-11939

INDUSTRIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.045 0.09 0.18 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 28, 2015

IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 61-11939

Dear Lessor:

Water Right **61-11939** was leased into the Water Supply Bank in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4933.

Sincerely,

FoR - Steven Visosky
Water Resource Agent

Enclosure: Executed Lease Contract

c: Angela Grimm – IDWR Western Region

DEC 26 2014

DEPARTMENT OF
WATER RESOURCES

MEMORANDUM

TO: Water Right File 61-11939
FROM: Daniel A. Nelson
DATE: March 11, 2011
SUBJECT: Idaho Power Water Supply Bank Rental Application

SUMMARY

Idaho Power filed an application to lease a portion of water right 61-11939 for an indefinite term on July 28, 2009. James C. Tucker, Idaho Power's Senior Attorney signed the application. Water right 61-11939 was decreed on October 26, 2000. The applicant wishes to place 0.27 cfs, 104 AF of diversion volume, and 58.2 AF of consumptive volume of the industrial and Cooling use into the water bank, which will leave 1.4 acres, 0.02 cfs, and 6.3 AF for Irrigation use and 0.63 cfs, 183.1 AF of diversion volume and 105.8 AF of Consumptive volume for the Industrial and Cooling uses with a total diversion of 0.65 cfs and 189 AF will continue to be used at the current location.

In 2002, water right transfer number 69262 was approved that split water right 61-2168 and change the nature of use of Idaho Power's portion of the water right into Irrigation, Industrial, and Cooling uses. The transfer allowed for 0.92 cfs, 293.4 AF diversion volume, 164 AF consumptive volume separated out to 1.4 acres of irrigation use (0.02 cfs / 6.3 AF) and Industrial and Cooling uses (0.90 cfs / 287.1 AF). All of the water uses are from ground water. The Mountain Home Aquifer system has been dropping for several years, so this water right transfer received a large number of protests. In order to approve the water right transfer, several conditions were listed on this water right to prevent injury to other water users. One of these conditions defined the consumptive volume of this water right. Another condition required Idaho Power to measure and report annual diversion of water described by this water right.

The owner of this water right has reported their water use from 2003 through 2009. The Department has not received their water use report for 2010 as of the date of this memo. These reports are placed in the Water Management Information System (WMIS). The WMIS records show that Idaho Power has not diverted more than 36 AF since 2003. The water right transfer was filed to supply water to the current facility (two 50 MW units) and supply additional water for future expansion of this facility. The current facility is estimated to use approximately 27.6 AF plus the irrigation of 6.3 AF. The WMIS records suggest that the expansions have yet to be pursued. Therefore, it is reasonable that they would want to place the portion of this water right set aside for future expansion into the water bank.

AUTHORITY TO FILE

The Senior Attorney for Idaho Power, James C. Tucker, signed the application for lease. Mr. Tucker is listed on several Departmental documents, as well as documents submitted to the Snake River Basin Adjudication as Idaho Power's Senior Attorney and Representative. Although it is uncommon for an attorney to sign for client without a power of attorney, Mr. Tucker is on Idaho Power's legal staff, and not a private attorney representing the organization. Therefore, Mr. Tucker should have the authority to sign for the company.

SUFFICIENCY OF SUPPLY

The Mountain Home area has struggled to maintain the water levels in their aquifer. Therefore, sufficiency of water is questionable. However, the previous water right transfer addressed this issue by imposing a consumptive water use limit. As long as the consumptive water use component is maintain, the water supply should not be an issue.

INJURY

There is nothing to suggest that putting these water rights into the water bank would cause injury to other water users. The consumptive use component should address most of the injury issues. However, there are two distinct aquifers in the Mountain Home area. There is the regional or deep aquifer, and there is the perched or shallow aquifer. Once staff receive a request to rent this water right, a review will need to be done that would address whether the rental will change aquifers and what affect that might have. This review will also need to address any changes in location, since that could be a factor as well.

ENLARGEMENT

No enlargement is being proposed. Once again the consumptive component will need to be addressed during the rental of this water right to prevent any enlargement is the water right is rented.

BENEFICIAL USE

The application proposes beneficial use consistent with conservation of water resources in Idaho.

LOCAL PUBLIC INTEREST

There is nothing to suggest that this lease is not in the local public interest. However, care will need to taken if this water right is rented to avoid any public interest issues. Any rental should probably be advertised to ensure agreement with the local public.

WATER DISTRICT

Ground water in the area described is not regulated by a watermaster.

RECOMMENDATION

I recommend that 0.27 cfs, 104 AF for both the Industrial and Cooling uses with a total water use of 0.27 cfs and 104 AF from water right 61-1193 be leased to the water bank. This will leave 0.63 cfs and 104 af for Cooling and Industrial uses, and 0.02 cfs, 6.3 AF and 1.4 acres for the Irrigation use with a total of 0.65 cfs, 189 AF, and 1.4 acres irrigation. The following conditions will also need to be included on the leased portion and the remaining portion.

Leased Portion:

Prior to diversion and use of water under this transfer approval, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications and shall report the amount of water diverted to the Department at the end of each calendar year.

The maximum volume of water diverted under this right shall not exceed 104 af per year of which no more than 58.2 af per year can be consumptively used.

Remaining Portion:

Prior to diversion and use of water under this transfer approval, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications and shall report the amount of water diverted to the Department at the end of each calendar year.

The maximum volume of water diverted under this right shall not exceed 189 af per year of which no more than 105.8 af per year can be consumptively used.

The above conditions should prevent any issues that may arise if the water right is rented. I would also recommend that the term of this water right lease be from December 8, 2009 to December 8, 2014.